

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 21-CR-110-WCG

PAUL S. OSTERMAN,

Defendant.

**UNITED STATES RESPONSE TO DEFENDANT'S REQUEST TO DELAY
SENTENCING HEARING PENDING RECONSIDERATION OF FRANKS
DECISION**

The United States of America, by and through its attorneys, Richard G. Frohling, United States Attorney, and Abbey M. Marzick, Assistant United States Attorney, hereby responds to the defendant's motion to delay sentencing pending a motion to reconsider the *Franks* decision. The government respectfully requests that the court deny the defendant's motion outright and proceed to sentencing as scheduled, on September 21, 2022.

On May 19, 2021, a federal grand jury returned a three-count indictment against the defendant, charging him with sex trafficking of a child in violation of Title 18, United States Code, Sections 1591(a)(1) and (b)(1); using a computer to persuade, induce, and

entice a minor to engage in unlawful sexual activity in violation of Title 18, United States Code, Section 2422(b); and travel with the intent to engage in a sex act with a minor, in violation of Title 18, United States Code, Section 2423(b).

After the Court extended the pretrial motions deadline on three occasions, all upon the defendant's request, the defendant filed a *Franks* motion on December 10, 2021. The government filed its response to the *Franks* motion on January 3, 2022. A *Franks* hearing was held on January 20, 2022. On January 26, 2022, this Court issued a written decision denying the defendant's *Franks* motion. A signed plea agreement was filed with the Court on April 8, 2022. Pursuant to the plea agreement, the defendant maintained his right to appeal the Court's *Franks* decision.

On April 11, 2022, the defendant entered a guilty plea to Count One of the indictment. The case was set for sentencing on July 20, 2022. One week before the sentencing, the defendant filed a motion to extend the deadline to file objections to the pre-sentencing report. In the motion, defense counsel cited to various scheduling issues to support his request. The government did not oppose, and the sentencing was reset to September 21, 2022. On September 16, 2022, defendant yet again moves to delay the sentencing. This time, defense requests the delay in order to argue for reconsideration of this Court's decision on the *Franks* ruling.

The government opposes this for two reasons. First, the Court's decision on the Franks issue was made nearly nine months ago. The defendant's motion to reconsider the decision two days prior to sentencing is untimely and unreasonable. Further, the defendant's guilty plea was a conditional one. Specifically, the defendant retained his right to appeal exactly what he wants to re-argue before this Court: the decision to deny the *Franks* motion. Further litigation at the trial court level would be futile, a waste of judicial resources, and only cause further delay to the proceedings. Second, any additional delay would violate the Crime Victims' Rights Act (CRVA). Among other delineated rights, the CRVA states that crime victims have the "right to proceedings free from unreasonable delay." 18 U.S.C. § 3771(a)(7). The defendant's second request to delay sentencing is just that: unreasonable. The minor victim's mother plans to attend sentencing in person and make a statement to the court both as a proximate victim and also on behalf of her minor daughter. The defendant's motion is filed not even two business days prior to sentencing. She has already altered her work schedule and her air travel has been booked. This is the *second* time this has occurred. Defendant's request to delay sentencing a second time, so close to the scheduled hearing, is unreasonable and should be denied.

Respectfully Submitted,

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